

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-066-10030R

Parcel No. 09-01-103-001

Xxodus Corporation,

Appellant,

vs.

Mitchell County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 2, 2019. Stanley Walk, President and Stockholder, represented Xxodus Corporation. Mitchell County Attorney Mark Walk represented the Board of Review.

Xxodus Corporation (Xxodus) owns an unimproved residential property legally described as Lot 1 Block 4 of the Kruger/Walk Development, Saint Ansgar. Its January 1, 2019, land assessment was set at \$11,120. (Ex. A).

Xxodus filed a petition with the Board of Review protesting the assessment. On the Petition, Xxodus wrote, "Actual market value is minimal," in the portion of the form reserved for a claim that the assessment was not equitable as compared with assessments of other like property. (Ex. C). The Board of Review ultimately denied the petition, stating "The Board of Review has not changed the assessment due to parcel being platted as a residential lot." (Ex. B).

Xxodus then appealed to PAAB asserting its assessment is not equitable with the assessments of other similar property; there is an error in the assessment; the property is not assessable, exempt, or misclassified; and the property is assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(1, 2, 3 & 4).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a vacant site with a total area of 0.820 acres. It has an irregular shape with a maximum width of 69 feet narrowing down to approximately 30 feet and a length of over 600 feet. (Exs. A, G ,K, 1 & 3) It is essentially landscaped greenspace along the entrance to the Kruger/Walk Development District, a 13.8 acre subdivision near the Cedar River in rural Mitchell County. (Ex. D).

Xxodus asserts the site has minimal market appeal due to the subject's shape. Xxodus submitted a letter from Kevin Kolbet, a licensed real estate broker, indicating he believes the site is not buildable. (Ex. 1). He noted the property has never been offered for sale, does not have utilities, and has been maintained by the neighborhood association as a commons area. (Ex. 1). Kolbet also stated he is aware of the covenants of the development and any home that could be built on the subject site would not meet the "architectural control" restrictions of the Cedar Village Homeowners Association (HOA). (Ex. 1). Kolbet reported that rules require properties to mirror dwellings in the subdivision. (Ex. 1).

Xxodus also submitted a letter from Mark Ross, the Mitchell County Zoning Administrator/Sanitarian. Ross states the size of the lot is restrictive in its use, but may be acceptable for a small two-bedroom home. (Ex. 2). Ross notes, however, that any larger home would conflict with setbacks and septic requirements. (Ex. 2).

Given the statements by Kolbet and Ross, it would appear that although the property may be large enough to accommodate a two-bedroom home, that type of dwelling would not conform with the subdivision's covenants.

Finally, Xxodus submitted a letter from Ken Jorgensen, HOA Treasurer of the Cedar Village Association. Jorgensen stated he believed the site was owned by and part of the "association common area." The Association has always paid for upkeep and maintenance of the site, and it has never been listed for sale. Jorgensen also asserts it is not a buildable site. (Ex. 3).

Stanley Walk testified the subject's development is upscale and improved with homes valued between \$200,000 and \$450,000. Walk also noted he does not believe a small home would meet development restrictions. Walk testified he never intended to sell the lot and it was expected to be used for common area for the association. This conflicts with minutes from the Board of Review meeting that says Walk indicated he attempted to sell the lot to the individual owners within the Kruger/Walk Development but nobody wanted to purchase it. (Ex. I). His testimony also conflicts with association documents indicating common areas will be designated and known as Kruger/Walk Property Owners Association and also that with the exception of Lot 5 Block 3 the lots will be used for single-family residential. (Ex. D). Walk testified an oversight was made not to have deeded the lot to the homeowners association.

Xxodus did not submit any comparable properties in support of his claim the property is inequitably assessed or over assessed.

The Board of Review asserts that because Xxodus did not submit any comparable sales and gave no evidence of an indicated value for the property, its claim must fail.

Analysis & Conclusions of Law

Xxodus asserted on its appeal form that there is an error in the assessment and that the property is not assessable, exempt, or misclassified. Iowa Code § 441.37(1)(a)(3 & 4). Xxodus offered no evidence or testimony relating to its statement of error or exemption it made on its Appeal, and therefore, we forego any further consideration to these claims.

Xxodus contends the assessment is not equitable as compared with assessments of other like property, and the property is assessed for more than authorized by law. Iowa Code sections 441.37(1)(a)(1, 2, 3 & 4).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965).

Xxodus also asserted its property is over assessed. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

Ultimately, in this case, Xxodus did not provide any comparable sales or other comparable properties to support either an inequity or over assessment claim. Further, Xxodus also failed to show what the property's correct value should be. An appraisal or a competent Comparable Market Analysis (CMA) would be typical evidence to support the subject property's fair market value.

Viewing the record as a whole, we find Xxodus failed to support its claims.

Order

PAAB HEREBY AFFIRMS the Mitchell County Board of Review's action.

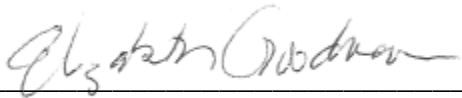
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:

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Mitchell County Board of Review by eFile